

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-9-05

WHEREAS, **SUMMERVILLE DEVELOPMENT, INC.** applied to Community Zoning

Appeals Board 15 for the following:

- (1) AU to BU-1
- (2) To permit a residential and commercial development setback 20' (25' required) from the front (west) property line, setback 12' from the rear (east) property line and setback 15' from the side street (south) property (25' required from all property lines.
- (3) To waive the 5' high decorative masonry wall required along the east property line for the business lot where it abuts a residential district.
- (4) To permit the residential/commercial development with a residential floor area covering 73% (50% maximum permitted).
- (5) To permit 3 stories (2 stories permitted)

REQUESTS #1 - #5 ON EXHIBIT "A"

- (6) AU to RU-3M
- (7) To permit the RU-3M lot with a frontage of 81' (100' required).
- (8) UNUSUAL USE to permit parking in a zone more restrictive (RU-3M) than the use it serves is located (BU-1).

REQUESTS #6 - #8 ON EXHIBIT "B"

- (9) UNUSUAL USE to permit a gated entrance feature.

REQUEST #9 ON EXHIBITS "A" & "B"

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 through #5 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) and request #7 may be considered under §33-311(A)(15) (Alternative Site Development Option for Multiple Family Use) or requests #2 through #5 and 7 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Summerville Town Center," as prepared by Corwil Architects, Inc., dated 5/4/04 and consisting of 6 sheets.

SUBJECT PROPERTY: OVERALL PROPERTY: Commence at the Southeast corner of Section 24, Township 56 South, Range 39 East; thence N1°4'14"E, for 65.03'; thence N89°03'18"W, for 40' to the Point of beginning; thence N1°4'14"E, for 266.39'; thence N89°01'53"W, for 790.84'; thence S01°11'31"W, for 266.36'; thence S89°03'18"E, for 790.27' to the Point of beginning. EXHIBIT "A": The south ½ of the SW ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' and less the west 40' thereof, AND: The west 86' of the SW ¼ of the SE ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' thereof for road. EXHIBIT "B": Commence at the Southeast corner of Section 24, Township 56 South, Range 39 East; thence N1°4'14"E, for 65.03'; thence N89°03'18"W, for 40' to the Point of beginning; thence N1°4'14"E, for 266.39'; thence N89°01'53"W, for 790.84'; thence S01°11'31"W, for 266.36'; thence S89°03'18"E, for 790.27' to the Point of beginning. LESS AND EXCEPT: The south ½ of the SW ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' and less the west 40' thereof, AND: The west 86' of the SW ¼ of the SE ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' thereof for road.

LOCATION: 24751 S.W. 117 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 15 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant requested permission to withdraw the requests to permit the residential/commercial development with a residential floor area covering 73% (Item #4), to permit 3 stories (Item #5), to permit the RU-3M lot with a frontage of 81' (Item #7), and the unusual uses (Items #8 & 9), and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by Corwil Architects, Inc., entitled "Summerville Town Center," dated the 30th day of August 2004, said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of the agreement.
2. The total residential density of the Property shall be limited to no more than thirty-three (33) residential units.

3. That portion of the Property, which is rezoned to RU-1, described in Exhibit "B," shall be used solely for a recreational park, and shall not be developed with residential units. Said recreational park shall be maintained by either a duly-created property owners' association or duly-created condominium association; or, upon the approval and with the consent of the County, said recreational park may be maintained by a special taxing district.

WHEREAS, upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 15 that the requested district boundary changes to BU-1 on Exhibit "A" (Item #1) and to RU-1 in lieu of the requested district boundary change to RU-3M on Exhibit "B" (Item #6) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the request on a modified basis to permit a residential and commercial development setback 15' from the side street (south) property line on Exhibit "A" (Item #2), and to waive the 5' high decorative masonry wall along the east property line for the business lot where it abuts a residential district on Exhibit "A" (Item #3) would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the withdrawal of the request to permit the residential/commercial development with a residential floor area covering 73% (Item #4), 3 stories (Item #5), the RU-3M lot with a frontage of 81' (Item #7), and the unusual uses (Items #8 & 9), should be granted, and that the proffered Declaration of Restrictions should be accepted and said application was approved by Resolution No. CZAB15-23-04, and

WHEREAS, **THE FARM, INC. & MANUEL DORTA DUQUE** appealed the decision of Community Zoning Appeals Board 15 to the Board of County Commissioners for the following:

THE FARM, INC. & MANUEL DORTA DUQUE are appealing Requests #1, #2, #3 & #6 of the decision of Community Zoning Appeals Board #15 on SUMMERVILLE DEVELOPMENT, INC. which approved in part, the following:

- (1) AU to BU-1
- (2) Applicant is requesting to permit a residential and commercial development setback 20' (25' required) from the front (west) property line, setback 12' from the rear (east) property line and setback 15' from the side street (south) property (25' required from all property lines.
- (3) Applicant is requesting to waive the 5' high decorative masonry wall required along the east property line for the business lot where it abuts a residential district.
- (4) Applicant is requesting to permit the residential/commercial development with a residential floor area covering 73% (50% maximum permitted).
- (5) Applicant is requesting to permit 3 stories (2 stories permitted)

REQUESTS #1 - #5 ON EXHIBIT "A"

- (6) AU to RU-3M
- (7) Applicant is requesting to permit the RU-3M lot with a frontage of 81' (100' required).
- (8) UNUSUAL USE to permit parking in a zone more restrictive (RU-3M) than the use it serves is located (BU-1).

REQUESTS #6 - #8 ON EXHIBIT "B"

- (9) UNUSUAL USE to permit a gated entrance feature.

REQUEST #9 ON EXHIBITS "A" & "B"

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 through #5 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) and request #7 may be considered under §33-311(A)(15) (Alternative Site Development Option for Multiple Family Use) or requests #2 through #5 and 7 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Summerville Town Center," as prepared by Corwil Architects, Inc., dated 5/4/04 and consisting of 6 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: OVERALL PROPERTY: Commence at the Southeast corner of Section 24, Township 56 South, Range 39 East; thence N1°4'14"E, for 65.03'; thence N89°03'18"W, for 40' to the Point of beginning; thence N1°4'14"E, for 266.39';

thence N89°01'53"W, for 790.84'; thence S01°11'31"W, for 266.36'; thence S89°03'18"E, for 790.27' to the Point of beginning. EXHIBIT "A": The south ½ of the SW ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' and less the west 40' thereof, AND: The west 86' of the SW ¼ of the SE ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' thereof for road. EXHIBIT "B": Commence at the Southeast corner of Section 24, Township 56 South, Range 39 East; thence N1°4'14"E, for 65.03'; thence N89°03'18"W, for 40' to the Point of beginning; thence N1°4'14"E, for 266.39'; thence N89°01'53"W, for 790.84'; thence S01°11'31"W, for 266.36'; thence S89°03'18"E, for 790.27' to the Point of beginning. LESS AND EXCEPT: The south ½ of the SW ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' and less the west 40' thereof, AND: The west 86' of the SW ¼ of the SE ¼ of the SW ¼ of the SW ¼ of Section 19, Township 56 South, Range 40 East, less the south 65' thereof for road.

LOCATION: 24751 S.W. 117 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant requested permission to withdraw the requests to permit the residential/commercial development with a residential floor area covering 73% (Item #4), to permit 3 stories (Item #5), to permit the RU-3M lot with a frontage of 81' (Item #7), and the unusual uses (Items #8 & 9), and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by Corwil Architects, Inc., entitled "Summerville Town Center," dated the 30th day of August 2004, said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of the agreement.
2. The total residential density of the Property shall be limited to no more than thirty-three (33) residential units.
3. That portion of the Property, which is rezoned to RU-1, described in Exhibit "B," shall be used solely for a recreational park, and shall not be developed with residential units. Said recreational park shall be maintained by either a duly-created property owners' association or duly-created condominium association; or, upon the approval and with the consent of the County, said recreational park may be maintained by a special taxing district.

WHEREAS, after reviewing the record and decision of Community Zoning Appeals Board 15 and after having given an opportunity for interested parties to be heard, it is the opinion of this Board that the grounds and reasons made by Community Zoning Appeals Board 15 in Resolution No.CZAB15-23-04 were insufficient to merit a reversal of the decision and that the appeal should be denied and the decision of Community Zoning Appeals Board 15 should be sustained, and

WHEREAS, upon due and proper consideration having been given to the matter it is the opinion of this Board that the requested district boundary changes to BU-1 on Exhibit "A" (Item #1) and to RU-1 in lieu of the requested district boundary change to RU-3M on Exhibit "B" (Item #6) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that a portion of the request to permit a residential and commercial development setback 15' from the side street (south) property line on Exhibit "A" (Item #2), and the request to waive the 5' high decorative masonry wall along the east property line for the business lot where it abuts a residential district on Exhibit "A" (Item #3) would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the withdrawal of a portion of the request to permit a residential and commercial development setback 20' from the front (west) property line, setback 12' from the rear (east) property line on Exhibit A (Item #2), and the requests to permit the residential/commercial development with a residential floor area covering 73% (Item #4), to permit 3 stories (Item #5), to permit the RU-3M lot with a frontage of 81' (Item #7), and the requested unusual uses (Items #8 & 9), should be granted, and that the proffered Declaration of Restrictions should be accepted, and

WHEREAS, a motion to deny the appeal and sustain the decision of Community Zoning Appeals Board 15, accept the proffered Declaration of Restrictions, approve Items #1 and 6, approve Item #3 and a portion of Item #2 to permit a residential and commercial development setback 15' from the side street (south) property line on Exhibit "A" as non-use variances, and to grant the withdrawal of Items #4, 5, 7, 8 and a portion of Item #2 to permit a residential and commercial development setback 20' from the front (west) property line, setback 12' from the rear (east) property line was offered by Commissioner Katy Sorenson, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	absent	Dennis C. Moss	aye
Dr. Barbara M. Carey-Shuler	aye	Dorrin D. Rolle	aye
Jose "Pepe" Diaz	aye	Natacha Seijas	aye
Carlos A. Gimenez	absent	Katy Sorenson	aye
Sally A. Heyman	aye	Rebecca Sosa	aye
Barbara J. Jordan	absent	Sen. Javier D. Souto	aye

Chairperson Joe A. Martinez absent

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby denied and the decision of Community Zoning Appeals Board 15 is sustained.

BE IT FURTHER RESOLVED that the requested district boundary changes to BU-1 on Exhibit "A" (Item #1) and to RU-1 in lieu of the requested district boundary change to RU-3M on Exhibit "B" (Item #6) be and the same are hereby approved.

BE IT FURTHER RESOLVED that a portion of the request to permit a residential and commercial development setback 15' from the side street (south) property line on Exhibit "A" (Item #2), and the request to waive the 5' high decorative masonry wall along the east property line for the business lot where it abuts a residential district on Exhibit "A"

(Item #3) be and the same are hereby approved as non-use variances, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director upon the submittal of an application for a building permit; said plan to include among other things but not be limited thereto, location of structure or structures, types, sizes and location of signs, light standards, off-street parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Summerville Town Center," as prepared by Corwil Architects, Inc., dated August 30, 2004 and consisting of 6 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
5. That a recordable agreement be submitted to and meet with the approval of the Director providing for permanent and safe access for pedestrian and vehicular traffic within the development and particularly for right of access for fire, police, health, and sanitation and other public service personnel and vehicles. The agreement, which shall be a covenant running with the land, shall also include a stipulation that the streets, or access ways, shall be installed and maintained by the applicant, including, but not limited to, sidewalks, drainage facilities, water, sewers and fire hydrants, meeting with the approval of the Director and the Director of the Public Works Department. Such agreement shall be executed by the property owner and any and all parties having an interest in the land, such as mortgagees, etc., and its improvements.
6. That in the event of multiple ownership, a homeowners' association, community development district, or special taxing district be established in accordance with applicable regulations to assure that all common areas and facilities for use of all residents and the proposed park on Parcel B shall be maintained in a continuous and satisfactory manner, and without expense to the general taxpayer of Miami-Dade County. The instrument incorporating such provisions shall be approved by the County Attorney at the time of the recording of the subdivision plat.
7. That the applicant comply with all the conditions and requirements of the Public Works Department.
8. That the applicant comply with all the conditions and requirements of the Department of Environmental Resources Management (DERM).

BE IT FURTHER RESOLVED that Resolution No. CZAB15-23-04 remains in full force and effect.

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 19th day of May, 2005, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 03-12-CZ15-2
ej

HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By KAY SULLIVAN
Deputy Clerk

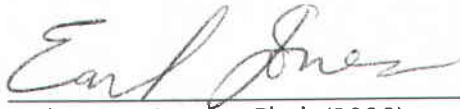
THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 2ND DAY OF JUNE, 2005.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-9-05 adopted by said Board of County Commissioners at its meeting held on the 19th day of May, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 2nd day of June, 2005.



Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Planning and Zoning

SEAL





Department of Planning and Zoning

Stephen P. Clark Center
111 NW 1st Street • Suite 1210
Miami, Florida 33128-1902
T 305-375-2800

May 2, 2005

miamidade.gov

Summerville Development, Inc.
c/o Alan Krischer
701 Brickell Avenue
Suite 3000
Miami, Florida 33131

Re: Hearing No. 03-12-CZ15-2
Location: 24751 S.W. 117 Avenue,
Miami-Dade County, Florida

Dear Applicant:

Enclosed herewith is Resolution No. Z-9-05, adopted by the Board of County Commissioners, which denied the appellant's appeal, sustained the Community Zoning Board 15's decision, accepted the proffered Declaration, and approved Items #1 and 6, approve Item #3 and a portion of Item #2 to permit a residential and commercial development setback 15' from the side street (south) property line on Exhibit "A" as non-use variances, and to grant the withdrawal of Items #4, 5, 7, 8 and a portion of Item #2 to permit a residential and commercial development setback 20' from the front (west) property line, setback 12' from the rear (east) property line on the above-described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If stipulated in the resolution that building permits and/or use, occupancy or completion certificates will be required, please note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution.

If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **June 2, 2005**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

Robert A. Ginsburg, County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,

Earl Jones
Deputy Clerk

Enclosure

Delivering Excellence Every Day

ADA Coordination

Agenda Coordination

Animal Services

Art in Public Places

Audit and Management Services

Aviation

Building

Building Code Compliance

Business Development

Capital Improvements Construction Coordination

Citizens' Independent Transportation Trust

Commission on Ethics and Public Trust

Communications

Community Action Agency

Community & Economic Development

Community Relations

Consumer Services

Corrections & Rehabilitation

Cultural Affairs

Elections

Emergency Management

Employee Relations

Empowerment Trust

Enterprise Technology Services

Environmental Resources Management

Fair Employment Practices

Finance

Fire Rescue

General Services Administration

Historic Preservation

Homeless Trust

Housing Agency

Housing Finance Authority

Human Services

Independent Review Panel

International Trade Consortium

Juvenile Assessment Center

Medical Examiner

Metro-Miami Action Plan

Metropolitan Planning Organization

Park and Recreation

Planning and Zoning

Police

Procurement Management

Property Appraiser

Public Library System

Public Works

Safe Neighborhood Parks

Seaport

Solid Waste Management

Strategic Business Management

Team Metro

Transit

Task Force on Urban Economic Revitalization

Vizcaya Museum And Gardens

Water & Sewer



Department of Planning and Zoning

Stephen P. Clark Center
111 NW 1st Street • Suite 1210
Miami, Florida 33128-1902
T 305-375-2800

miamidade.gov

ADA Coordination

Agenda Coordination

Animal Services

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Citizens' Independent Transportation Trust

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Community & Economic Development

Community Relations

Consumer Services

Corrections & Rehabilitation

Cultural Affairs

Elections

Emergency Management

Employee Relations

Empowerment Trust

Enterprise Technology Services

Environmental Resources Management

Fair Employment Practices

Finance

Fire Rescue

General Services Administration

Historic Preservation

Homeless Trust

Housing Agency

Housing Finance Authority

Human Services

Independent Review Panel

International Trade Consortium

Juvenile Assessment Center

Medical Examiner

Metro-Miami Action Plan

Metropolitan Planning Organization

Park and Recreation

Planning and Zoning

Police

Procurement Management

Property Appraiser

Public Library System

Public Works

Safe Neighborhood Parks

Seaport

Solid Waste Management

Strategic Business Management

Team Metro

Transit

Task Force on Urban Economic Revitalization

Vizcaya Museum And Gardens

Water & Sewer

May 2, 2005

Summerville Development, Inc.
c/o Kent Harrison Robbins
1224 Washington Avenue
Miami, Beach, Florida 33189

Re: Hearing No. 03-12-CZ15-2
Location: 24751 S.W. 117 Avenue,
Miami-Dade County, Florida

Dear Appellant:

Enclosed herewith is Resolution No. Z-9-05 adopted by the Board of County Commissioners, which denied your appeal and sustained the decision of Community Zoning Appeals Board 8.

The Board's decision may be appealed to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **June 2, 2005**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

Robert A. Ginsburg, County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,

Earl Jones
Deputy Clerk

Enclosure

Delivering Excellence Every Day